REMARKS

The present remarks are in response to the Office Action dated April 27, 2009, in which the Office Action issued a rejection of claims 1-7, 9-15, 17-19, and 36-37. In this response, the Applicant has made Amendments to independent claims 1 and 12. Additionally, the Applicant has cancelled claims 36 and 37. In view of the Amendments and Remarks submitted herewith, the Applicant respectfully requests that the pending claims be placed in a state of allowance. No new matter has been added.

B. 35 USC 112 Claim Rejection

The Examiner rejected claims 1-7, 9-15, 17-19, 36-37 under 35 USC 112, first paragraph, as failing to comply with the written description requirement. It appears the Examiner argues that Applicant's specification discloses a single dynamic paytable used in the bingo game. See Examiner's Action, Page 2. Additionally, the Examiner then states that claims 1-7, 9-15, 17-19 and 36-37 are rejected under 35 USC 112 second paragraph as being indefinite. The Examiner states that "it is not clear that the single dynamic paytable comprises a plurality of paytable." See Page 4 of the Examiner's Action. The Examiner then continues by stating that it appears that the dynamic paytable is the "plurality of paytables," wherein the dynamic paytable comprises a plurality of payouts. Id.

Applicant has amended the independent claims to replace the "plurality of paytables" with a "a plurality of payouts." Additionally, the Applicant has replaced "each paytable" with "each payout." Applicant respectfully submits that these amendments overcome the Examiner's 112 first paragraph and second paragraph rejections for claims 1-7, 9-15, 17-19, and 36-37.

The Examiner continues by rejecting claims 36-37 under 35 USC 112, first paragraph, because "the specification does not describe how the value of the prize to be awarded PAY(I), is used to modify the paytable which includes payouts for the Bingo combination, Four Corners combination, and Blackout combination." The Examiner also argues that claims 36 and 37 fail to particularly point out and distinctly claim the subject matter the Applicant under 35 USC 112, second paragraph,

because: the claims do not specifically specify what the PAY(I) is; the claims do not specify what the AL(HIT) is; and the claims do not specify the next game event for the PR(I) probability.

The Applicant refers the Examiner to Figure 5 at block 247 that determines the award to a player for a "particular *game event*" and prize awarded is referred to as PAY(I). See block 247 and Page 24, lines 17-22. In Figure 6, the Applicant specifically refers to providing a *payout* for three different Bingo variations or combinations and describes a payout column 268. See Page 27, lines 1-5. In Figure 8, the Applicant shows a Bingo combination payout. In Figure 9, the Applicant presents a Four Corners payout. In Figure 10, a Blackout payout is shown.

Additionally, the Applicant has described a "game event" as occurring when "a bingo number is picked or drawn from a set of bingo numbers." See Page 25, lines 15-16. The Applicant then continues by stating that "(f)or the chargeable action embodiment, the player is charged at least one credit for each *game event*" and the process for charging the player for each game event is referred to as a chargeable action. See Page 25, lines 16-20.

The Applicant then continues to clarify that the "player is charged a predefined number of credits for each bingo number that is drawn or picked during the *game event*." See Page 26, lines 6-8. The Applicant then states that during the game session, the player may also be awarded an intermediary prize after a game event; and the intermediary prize is transferred to the credit meter 256 so that the player may apply the newly awarded credits towards continuing the game session. See Page 28, lines 1-5.

Thus, the Applicant respectfully submits that the PAY(I) refers to the award being a payout for a particular game event, namely, a bingo pattern. The Applicant has amended the independent claims 1 and 12 accordingly to refer to <u>PAY(I) is a payout for a bingo pattern</u>.

With respect to Examiner's AL(HIT), the Applicant described the allocation weighting function as determining "the percentage of the total prize awarded" for each winning bingo pattern. See Page 23, line 18 - Page 24, line 6. However, the Applicant has not specified the existence of a bingo pattern, so the Applicant has

amended the claim to include determining the percentage of the total prize awarded for the bingo pattern.

In keeping with the above amendment, the Applicant has amended the PR(I) probability to include a probability for the next game event, wherein the next game event is the bingo number picked from the set of bingo numbers.

C. 35 USC 103(a) Claim Rejection

The Examiner rejected claims 1-7, 9-15, 17-19, and 36-37 under 35 USC 103(a) as being unpatentable over the same named inventor Luciano (US 6,368,214) hereinafter referred to as "Luciano" in view of Odom (US 6,581,935) referred to as "Odom." With respect to claims 1 and 12, the Applicant respectfully disagrees with the Examiner's grounds for rejection. However, to expedite the prosecution of this patent application the Applicant has included the limitations of recently cancelled claims 36 and 37 in the independent claims 1 and 12, respectively.

In the Examiner's action, the Examiner states that "the specific equation used to change the dynamic paytable is a design choice." See Examiner's Action at Page 11. Applicant respectfully disagrees.

The Examiner shall appreciate that saying something is obvious requires some degree of legal underpinning and the Examiner bears the initial burden for presenting a prima facie case of unpatentability. MPEP 2106 citing In re Oetiker, *977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992), pp 2100-13. Additionally, as stated by the MPEP at 2142:*

> *The key to supporting any rejection under 35 U.S.C. 103 is the* ***clear articulation of the reason(s) why the claimed invention would have been obvious.*** *The Supreme Court in KSR International Co. v. Teleflex Inc., 550 U.S. ___, ___, 82 USPQ2d 1385, 1396* (2007) noted that the ***analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.*** The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, ***there must be some articulated reasoning with some rational underpinning*** to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___ , 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). See MPEP 2100-127,128 (emphasis added).

KSR states that a rejection should be made *explicit.*

Furthermore, as stated by the MPEP at 2143 some exemplary rationales that would support an obviousness rejection and a clear articulation being made explicit include:

> Exemplary rationales that may support a conclusion of obviousness include:
> (A) Combining prior art elements according to known methods to yield predictable results;
> (B) Simple substitution of one known element for another to obtain predictable results;
> (C) Use of known technique to improve similar devices (methods, or products) in the same way;
> (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
> (E) "Obvious to try" – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
> (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art;
> (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Applicant respectfully submits that the Examiner has failed to provide a reference that teaches the elements claimed by Applicant, namely, enabling the dynamic paytable to be modified after each game event according to an equation:

PAY(I) = ROI * ABET * WGT(I) * AL(IHIT)/PR(I)

where,

PAY(I) is a payout for a bingo pattern;

ROI is an overall payback percentage;

ABET is an average bet;

WGT(I) is a graduated weighting function that weighs probabilities more favorably for game events that occur at the end of the said game session;

AL(IHIT) is a pay allocation weighting function that determines the percentage of the total prize awarded for the bingo pattern; and

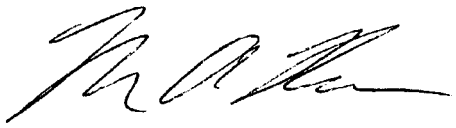
PR(I) includes a probability for the next game event, wherein the next game event is the bingo number picked from the set of bingo numbers. Again, Applicant

respectfully submits that these claim elements are not taught or suggested by the either Luciano, Odom, or the combination thereof.

C. Conclusion

In view of all of the foregoing, claims 1-7, 9-15, and 17-19 overcome the Office Action rejection herein and are now patentably distinct and in condition for allowance, which action is respectfully requested.

Respectfully Submitted;



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